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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,898	07/17/2003	Bradford Evan Gliner	33734-8059US	2827

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EXAMINER

LAYNO, CARL HERNANDZ

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,898

Applicant(s)

GLINER ET AL.

Examiner

Carl H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,6-8,10,11,13,15 and 17-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,6-8,10,11,13,15 and 17-50 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Withdrawal from Issue

1. The indicated allowability of claim 2 is withdrawn in view of the newly discovered reference(s) to Gluckman et al. Rejections based on the newly cited reference(s) follow.
2. Claims 1, 4, 5, 9, 12, 14, and 16 are canceled. Claims 2, 3, 6-8, 10, 11, 13, 15, and 17-50 are active.

Information Disclosure Statement

3. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449) which was received by the Office on September 15, 2004.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Firlik et al '419-A1 in view of Gluckman et al '562.

The Firlik et al '419-A1 U.S. Patent Application Publication, cited by the Examiner in the Office action of 4/29/04, describes a method for effectuating a change in a neural function of a

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patient. The reference describes a diagnostic feature in which an “affected limb” is directed to be moved by either a doctor or a patient (paragraph [0069], lines 12-19) in order to produce neural signals in a particular part of the brain. See paragraph [0098]. The reference, however, makes no mention of “eliminating an essential tremor motion”.

The Gluckman et al ‘562 patent teaches the elimination of tremors by electrical stimulation (col.10, lines 2-6).

It would have been obvious to one of ordinary skill in the art, in view of Gluckman et al, to not only reduce the tremors as taught by Firlik et al, but entirely eliminate them for the betterment of the patient.

Allowable Subject Matter

6. Claims 3, 6-8, 10, 11, 13, 15, and 17-50 are allowed.

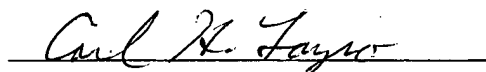
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message (carl.layno@uspto.gov) may be left if desired.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (571) 272-4955. All faxed correspondence should be sent to the Office's Official FAX number (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (571) 272-4399.

A handwritten signature in cursive script, reading "Carl H. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL
12/15/2004